

BEFORE THE  
DENTAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Reduction of  
Penalty of:

SIAMAK MACK JAFARI, DDS  
12 Oak Treat Court  
Walnut Creek CA 94597

Dental License No. 49720

Case No. DBC 2007-43  
OAH No. 2010110441

Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Dental Board of California, Department of Consumer Affairs, as its Decision in the above-entitled matter.

This Decision shall become effective on February 25, 2011.

IT IS SO ORDERED January 25, 2011.

  
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John S. Bettinger, Board President  
Dental Board of California  
Department of Consumer Affairs

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DEPARTMENT OF CONSUMER AFFAIRS  
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In the Matter of the Petition for Reduction of  
Penalty of:

SIAMAK MACK JAFARI, D.D.S.  
Walnut Creek, California

Dental License No. 49720,

Petitioner.

Case No. DBC 2007-43

OAH No. 2010110441

**PROPOSED DECISION**

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on December 3, 2010.

Deputy Attorney General Brett A. Kingsbury represented the Department of Justice, Office of the Attorney General.

Attorney Ali Oromchian represented petitioner Siamak Mack Jafari, who was present.

The matter was submitted for decision on December 3, 2010.

**FACTUAL FINDINGS**

1. On July 16, 2006, the Dental Board of California issued Dental License No. 49720 to petitioner Siamak Mack Jafari, D.D.S. The license is current.

2. In 2008, the board's executive officer filed an amended accusation alleging two causes for discipline: (1) that petitioner had fraudulently procured his dental license in that he had failed to disclose a 1997 misdemeanor conviction of simple battery; and (2) that the license had been issued by mistake based on petitioner's falsification of his application. Following a stipulated settlement and disciplinary order, the board issued a decision effective August 2, 2008, which revoked petitioner's dental license, stayed the revocation, and placed petitioner's dental license on probation for three years on standard terms and conditions, plus requiring a psychiatric evaluation and an ethics course. Cost recovery of \$6,700 and probation monitoring costs were imposed.

3. On October 4, 2010, petitioner submitted his petition for termination of probation. As of the date of hearing, petitioner has completed almost two and one-half years of probation; his term is scheduled to end August 2, 2011.

4. Applicant has complied with all terms and conditions of probation to date. This is confirmed by a letter from Dental Board Investigator Adam Iremonger dated March 2, 2010, in which he attests:

Dr. Jafari is currently in good standing with his [probationary] requirements and has completed all requirements thus far. Dr. Jafari has continued to take the responsibility of his probation requirements seriously.

- a. Petitioner has paid cost recovery in full.
- b. Petitioner has paid all fees associated with probation.
- c. Petitioner completed an ethics course.
- d. Petitioner completed the 40-hour community service obligation at a food bank.

5. Respondent underwent a psychiatric evaluation by Charles Seaman, M.D., in October 2008. Apparently Dr. Seaman recommended that petitioner undergo therapy once a month for a year, which the board ordered. Petitioner elected to attend twice that amount of therapy with clinical psychologist Belinda Jo Lopes, Ph.D.

In a report dated June 4, 2010, Dr. Lopes confirms that petitioner attended 25 sessions with her. In her opinion, petitioner poses no risk to patients or the public. She writes:

Clinically, I have assessed the various issues that were raised by Charles Seaman, MD, and have found no indication of substance abuse of any kind; absolutely no anger management difficulties; and [he] is in no manner a threat to his patients, nor is he a negative representative of the profession of dentistry. I have found Dr. Jafari to be of exemplary character. His presentation is, without fail, always professional and leaves me without doubt of his ethics. He shows determination to focus on creating a better self professionally, emotionally and morally.

Dr. Lopes has seen no indication that petitioner is dishonest, and he appears to her to be "a kind hearted individual of character and integrity." She concludes:

I do not hesitate to recommend the early termination of probation of Dr. Jafari as he poses absolutely no risk to his patients or to the public at large.



6. Petitioner's criminal conviction was expunged in February 2001. Petitioner did not disclose the criminal conviction on his application because of advice he received from his attorney stemming from the expungement. He was not attempting to mislead the board regarding his conviction, and he is genuine in his apology to the board for not reading the application more carefully before he completed it. Being on probation to the board has been a humbling experience for him.

7. Petitioner works full-time as a general dentist in his own dental practice, which operates under the business name of Sky Dental, and is located in Pittsburg, California. There are currently 30 employees of the business, including specialty and general dentists.

8. Respondent submitted letters from three dentists each of whom has worked with him. Endodontist Lynn-Baldassari-Cruz, D.D.S., has worked with petitioner for five years at Sky Dental. Dentist Khashayar Khomejany, D.D.S., is a managing dentist at Sky Dental, and has known respondent for three years. Oral and Maxillofacial Surgeon A. Michael Sodeifi, DMD, MD, MPH, has known respondent for three years, and has had a number of patients in common with him. Each author attests to petitioner's good character, and to his professionalism, skill and ethics as a dentist.

9. Petitioner seeks a reduction in penalty because he believes he is a competent dentist, and that he does not require further monitoring over the remaining eight months of probation. Being on probation has been problematic for the practice financially, as a number of insurance companies have dropped him as a covered provider. He stopped teaching continuing education at the University of Pacific while on probation, and it is something he would like to resume.

### LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 1686, subdivision (a), a licensee who has been placed on probation for three years or more may petition for termination of probation upon completion of two years of probation. The petitioner bears the burden of presenting sufficient evidence of rehabilitation to warrant an early termination of probation. (Cf., *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315.) The factors to be considered are: (1) activities following the disciplinary action; (2) the disciplinary offense; (3) activities while the license was in good standing; and, (4) evidence of rehabilitation, reputation for truth and professional ability. (Bus. & Prof. Code, § 1686, subd. (c).)

2. Petitioner has been completely compliant with his probation to date. He has presented sufficient evidence of rehabilitation to show that he no longer requires the safeguards of probation in order to practice dentistry with safety to the public. Petitioner has thus sustained his burden of demonstrating to the board that cause exists to terminate his probation.

ORDER

The petition of Siamak M. Jafari, D.D.S., for early termination of probation is granted.

DATED: 12/29/10

Melissa Crowell

MELISSA G. CROWELL

Administrative Law Judge

Office of Administrative Hearings